

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
GREENVILLE DIVISION

Daniel Dondrekus Johnson,)
Petitioner,) C/A No. 6:17-1755-HMH-KFM
vs.)
United States of America,)
Respondent.)

OPINION & ORDER

This matter is before the court with the Report and Recommendation of United States Magistrate Judge Kevin F. McDonald, made in accordance with 28 U.S.C. § 636(b) and Local Rule 73.02 for the District of South Carolina.¹ Daniel Dondrekus Johnson (“Johnson”), a federal prisoner proceeding pro se, filed a petition pursuant to 28 U.S.C. § 2241. Magistrate Judge McDonald recommends that the § 2241 petition be dismissed without prejudice and without requiring the respondent to file an answer or return “[b]ecause the petitioner is incarcerated in West Virginia and the warden of that institution is not located within the geographical limits of this United States District Court.”² (R&R 11, ECF No. 3.)

¹ The recommendation has no presumptive weight, and the responsibility for making a final determination remains with the United States District Court. See Mathews v. Weber, 423 U.S. 261, 270 (1976). The court is charged with making a de novo determination of those portions of the Report and Recommendation to which specific objection is made. The court may accept, reject, or modify, in whole or in part, the recommendation made by the magistrate judge or recommit the matter with instructions. 28 U.S.C. § 636(b)(1).

² Although Johnson has named the United States in the action, the proper party is the warden of the institution where he is confined. United States v. Poole, 531 F.3d 263, 270-71 (4th Cir. 2008).

Objections to the Report and Recommendation must be specific. Failure to file specific objections constitutes a waiver of a party's right to further judicial review, including appellate review, if the recommendation is accepted by the district judge. See United States v. Schronce, 727 F.2d 91, 94 & n.4 (4th Cir. 1984). In the absence of specific objections to the Report and Recommendation of the magistrate judge, this court is not required to give any explanation for adopting the recommendation. See Camby v. Davis, 718 F.2d 198, 199 (4th Cir. 1983). Johnson filed objections to the Report and Recommendation and requests that instead of dismissing his petition, the court transfer his § 2241 petition to the Southern District of West Virginia because he is incarcerated at FCI-McDowell in Welch, West Virginia. Therefore, after a review of the record in this case and the magistrate judge's Report and Recommendation, the court transfers this case to the Southern District of West Virginia. The court adopts the portions of the Report and Recommendation that are consistent with this opinion.

Therefore, it is

ORDERED that this case is transferred to the Southern District of West Virginia.

IT IS SO ORDERED.

s/Henry M. Herlong, Jr.
Senior United States District Judge

Greenville, South Carolina
August 23, 2017